

1  
2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Civil Action No. 15-cv-2017 (PKC) (SN)

5 -----x

6 YOTAM MAROM, MIRIAM ROCEK, and DON FITZGERALD,

7 Plaintiffs,

8 - against -

9 NEW YORK POLICE DEPARTMENT SERGEANT FIOR

10 BLANCO, NEW YORK POLICE DEPARTMENT LEGAL

11 BUREAU OFFICER OLEG CHERNYAVSKY, NEW YORK

12 POLICE DEPARTMENT OFFICER MICHAEL GALGANO,

13 Shield No. 2671, NEW YORK POLICE DEPARTMENT

14 OFFICER CYNTHIA BOYLE, Shield No. 06663, NEW

15 YORK POLICE DEPARTMENT OFFICER STEVEN

16 VALENTINE, Shield No. 13585, and NEW YORK

17 POLICE DEPARTMENT OFFICERS JOHN & JANE DOE #

18 1-15 (the names being fictitious, as the true

19 names and shield numbers are not presently

20 known), in their individual and official

21 capacities,

22 Defendants.

23 -----x

24 (Continued.)

25

1 VALENTINE

2 Q I am just going to caution you not to  
3 reveal in response to my questions the  
4 contents of any communications that you had  
5 with Ms. Robinson because I am not trying to  
6 get around the attorney, client privilege,  
7 which usually will protect the contents of  
8 those communications.

9 MR. OLIVER: Correct me if I am  
10 wrong.

11 MS. ROBINSON: Correct. Don't  
12 discuss anything we have discussed.

13 Q The contents, correct, of the  
14 communications. The question was which  
15 documents did you review on December 13th. I  
16 think you got as far as the on-line.

17 A The affidavit, the vouchers and there  
18 was a little piece of paper with -- I don't  
19 know what you call it, pedigree or story.

20 Q Anything else in terms of documents  
21 that you reviewed on the 13th?

22 A Not that I remember. That is all  
23 that comes to my head.

24 MR. OLIVER: I am going to show the  
25 witness what has been marked as Valentine1.

1 VALENTINE

2 These are documents that were disclosed by  
3 email this morning by opposing counsel and that  
4 opposing counsel was kind enough to bring hard  
5 copies of to the deposition. I have marked  
6 them collectively as Valentine 1. They are not  
7 yet Bates numbered, but I understand they will  
8 be reproduced with Bates numbers.

9 Just note that on Pages 2 and 3 of the  
10 OLBS, the third-party arrest ID has appeared to  
11 be redacted, which I don't think is consistent  
12 with the court's order to disclose third-party  
13 arrest numbers, which at any rate have already  
14 been disclosed as part of the mass arrest  
15 report. So, I am requesting when the Bates  
16 number copy is produced, it not contain those  
17 redactions on those pages of the OLBS report.

18 MS. ROBINSON: Your request is noted.

19 Q Officer Valentine, I am showing you  
20 what has been marked as Valentine 1. Let me  
21 know when you have had an opportunity to  
22 review it.

23 (Exhibit handed to witness.)

24 A Alright.

25 Q Do you recognize those documents?

1 VALENTINE

2 A Yes.

3 Q Are those all the documents that you  
4 reviewed on December 13th to prepare for your  
5 deposition?

6 A Yes.

7 Q Did you review any documents on  
8 December 13th to prepare for your deposition  
9 aside from those documents that are included  
10 in Valentine 1?

11 A No.

12 Q On December 13th, did you review any  
13 photographs to prepare for your deposition?

14 A No.

15 Q I am sorry, aside from the photo that  
16 is included --

17 A Yes, on the on-line movement slip.

18 Q There is a prisoner movement slip in  
19 Valentine 1 and that contains a photo, right?

20 A Yes.

21 Q You reviewed that, right?

22 A Yes.

23 Q Aside from that photo, did you review  
24 any photos to prepare for the deposition on  
25 December 13?

1 VALENTINE

2 precinct came back --

3 A Like I remember fingerprinting a  
4 whole bunch of purps.

5 Q What else?

6 A With this, I don't know what you want  
7 to call it, Valentine 1, Page 1, I guess.

8 Q Okay.

9 A I believe someone from legal gave it  
10 to me, I remember something, but I don't know  
11 who. I remember speaking to someone from  
12 legal, but I am not one hundred percent sure.

13 Q Where did that conversation occur?

14 A It occurred at 14th, Midtown South  
15 Precinct.

16 Q Do you remember who from legal gave  
17 it to you?

18 A No.

19 Q You know Dan Albano?

20 A Sounds familiar, but I am not sure.

21 Q You don't know Dan Albano from the  
22 legal bureau from working on the task at  
23 protests?

24 A The name rings a bell. If I had a  
25 picture, I couldn't point to him.

1 VALENTINE

2 Q You couldn't?

3 A I don't think so. Maybe recognize  
4 him by face, I don't know.

5 Q Tell me what you remember about the  
6 person from the legal bureau that gave it to  
7 you.

8 A I remember going to see somebody sit  
9 down with them and they reviewed the charges,  
10 and they were just basically asking a couple  
11 of questions. They had me say what I wanted  
12 to say and then they kind of reviewed the  
13 charges.

14 Q Do you remember anything about what  
15 that person looked like?

16 A No.

17 Q Do you remember their apparent  
18 gender?

19 A No. Maybe male. I believe male.

20 Q Do you remember if they had hair on  
21 their head?

22 A No.

23 Q Do you remember what color hair they  
24 had on their head?

25 A No.

1 VALENTINE

2 Q Do you remember approximately how  
3 tall they were?

4 A No.

5 Q Do you remember approximately what  
6 they weighed?

7 A No.

8 Q Was it a person you had ever seen  
9 before?

10 A I don't know.

11 Q You are not sure?

12 A Because I don't remember.

13 Q Do you know Kenneth O'Donnell?

14 A No.

15 Q Do you know Oleg Chern, C-H-E-R-N?

16 A No.

17 Q Aside from the ways that you have  
18 just explained, did reviewing the documents in  
19 Valentine 1 refresh your recollection about  
20 the events of March 17th to 18th, 2012 in any  
21 other ways?

22 A No. I don't think so.

23 Q Did reviewing the photo included in  
24 Valentine 1 refresh your recollection about  
25 the events of March 17th to 18th, 2012 in any

1 VALENTINE

2 A It would have just been my five.

3 Q At what point did you complete those  
4 scratch copies, before you started  
5 fingerprinting?

6 A Yes.

7 Q So, tell me what you did to create  
8 those scratch OLBS's?

9 A I don't remember.

10 Q You don't remember at all?

11 A No. I mean, I can tell you what  
12 would have happened is --

13 Q Well, usually when you do an OLBS, do  
14 you have assistance from somebody from the  
15 legal borough?

16 A I normally, yes.

17 Q Normally yes?

18 A In these type of situations.

19 Q When you say in these type of  
20 situations, what type of situations?

21 A Like mass arrests, critical mass,  
22 usually in large demonstrations.

23 Q I see. Was there a legal bureau  
24 attorney who was present at Midtown South  
25 Precinct?



1 VALENTINE

2 A I believe so.

3 Q You remember me asking you questions  
4 earlier in the deposition about that person?

5 A Yes.

6 Q It is a couple of hours later, you  
7 have been reliving the events of the 17th to  
8 the 18th for a couple of hours. So, sitting  
9 here now, do you remember who that legal  
10 bureau attorney was?

11 A No.

12 Q Sitting here now, do you remember  
13 what they looked like?

14 A No. Besides just a white male.

15 Q Tell me what you remember with  
16 respect to your interaction with that person  
17 on March 17th, 2012.

18 A I believe that he went over, made  
19 sure the charges were right and then he told  
20 me about the story.

21 Q Tell me what you mean like he told  
22 you about the story.

23 A This little piece of paper.

24 (Indicating)

25 Q Page 1 of Valentine 1, the little

1 VALENTINE

2 piece of paper, is that your handwriting?

3 A This is not, this.

4 (Indicating)

5 Q The narrative up top is not your  
6 handwriting?

7 A No.

8 Q Whose handwriting is it?

9 A I don't know. I believe it's someone  
10 from legal, but I am not sure.

11 MR. OLIVER: I will call for the  
12 defendants to identify the author of the  
13 narrative text in Page 1 of Valentine 1.

14 MS. ROBINSON: Your request is noted.  
15 We are working on that.

16 MR. OLIVER: I will follow up in  
17 writing.

18 Q So, the writing on this document that  
19 is in your handwriting is these two numbers  
20 that I am pointing to, right?

21 A Yes.

22 Q What do those correspond to?

23 A I don't know. I was trying to figure  
24 that out myself. I know this is approximating  
25 the time for the warnings and this is